

Message Text

PAGE 01 STATE 102629
ORIGIN L-03

INFO OCT-01 ARA-10 ISO-00 SAB-02 /016 R

DRAFTED BY L/ARA:M.KOZAK:JV
APPROVED BY L/ARA:M.KOZAK
-----008427 220247Z /66
O 212354Z APR 78
FM SECSTATE WASHDC
TO AMEMBASSY PANAMA IMMEDIATE

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E.O. 11652: N/A

TAGS: PBOR, PN

SUBJECT: PANAMA CANAL TREATIES

FOR AMBASSADOR JORDEN

FOLLOWING IS TEXT OF DRAFT INSTRUMENT OF RATIFICATION OF
NEUTRALITY TREATY:

BEGIN TEXT: "JIMMY CARTER, PRESIDENT OF THE UNITED STATES
OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

CONSIDERING THAT:

THE TREATY CONCERNING THE PERMANENT NEUTRALITY AND
OPERATION OF THE PANAMA CANAL (NEUTRALITY TREATY) WAS

SIGNED AT WASHINGTON ON SEPTEMBER 7, 1977; AND

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THE SENATE OF THE UNITED STATES OF AMERICA BY ITS RESO-
LUTION OF MARCH 16, 1978, TWO-THIRDS OF THE SENATORS
PRESENT CONCURRING THEREIN, GAVE ITS ADVICE AND CONSENT
TO RATIFICATION OF THE NEUTRALITY TREATY

SUBJECT TO

THE FOLLOWING:

(A) AMENDMENTS:

(1) AT THE END OF ARTICLE IV, INSERT THE FOLLOWING:

'A CORRECT AND AUTHORITATIVE STATEMENT OF CERTAIN RIGHTS AND DUTIES OF THE PARTIES UNDER THE FOREGOING IS CONTAINED IN THE STATEMENT OF UNDERSTANDING ISSUED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA ON OCTOBER 14, 1977, AND BY THE GOVERNMENT OF THE REPUBLIC OF PANAMA ON OCTOBER 18, 1977, WHICH IS HEREBY INCORPORATED AS AN INTEGRAL PART OF THIS TREATY, AS FOLLOWS:

' (INNER QUOTE) UNDER THE TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL (THE NEUTRALITY TREATY), PANAMA AND THE UNITED STATES HAVE THE RESPONSIBILITY TO ASSURE THAT THE PANAMA CANAL WILL REMAIN OPEN AND SECURE TO SHIPS OF ALL NATIONS. THE CORRECT INTERPRETATION OF THIS PRINCIPLE IS THAT EACH OF THE TWO COUNTRIES SHALL, IN ACCORDANCE WITH THEIR RESPECTIVE CONSTITUTIONAL PROCESSES, DEFEND THE CANAL AGAINST ANY THREAT TO THE REGIME OF NEUTRALITY, AND CONSEQUENTLY SHALL HAVE THE RIGHT TO ACT AGAINST ANY AGGRESSION OR THREAT DIRECTED AGAINST THE CANAL OR AGAINST THE PEACEFUL TRANSIT OF VESSELS THROUGH THE CANAL.

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' (INNER QUOTE) THIS DOES NOT MEAN, NOR SHALL IT BE INTERPRETED AS, A RIGHT OF INTERVENTION OF THE UNITED STATES IN THE INTERNAL AFFAIRS OF PANAMA. ANY UNITED STATES ACTION WILL BE DIRECTED AT INSURING THAT THE CANAL WILL REMAIN OPEN, SECURE, AND ACCESSIBLE, AND IT SHALL NEVER BE DIRECTED AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF PANAMA. (END INNER QUOTE)'

(2) AT THE END OF THE FIRST PARAGRAPH OF ARTICLE VI, INSERT THE FOLLOWING:

' IN ACCORDANCE WITH THE STATEMENT OF UNDERSTANDING MENTIONED IN ARTICLE IV ABOVE: (INNER QUOTE) THE NEUTRALITY TREATY PROVIDES THAT THE VESSELS OF WAR AND AUXILIARY VESSELS OF THE UNITED STATES AND PANAMA WILL BE ENTITLED TO TRANSIT THE CANAL EXPEDITIOUSLY. THIS IS INTENDED, AND IT SHALL SO BE INTERPRETED, TO ASSURE THE TRANSIT OF SUCH VESSELS THROUGH THE CANAL AS QUICKLY AS POSSIBLE, WITHOUT ANY IMPEDIMENT, WITH EXPEDITED TREATMENT, AND IN CASE OF NEED OR EMERGENCY, TO GO TO THE HEAD

OF THE LINE OF VESSELS IN ORDER TO TRANSIT THE CANAL RAPIDLY. (END INNER QUOTE)'

(B) CONDITIONS:

(1) NOTWITHSTANDING THE PROVISIONS OF ARTICLE V OR ANY OTHER PROVISION OF THE TREATY, IF THE CANAL IS CLOSED, OR ITS OPERATIONS ARE INTERFERED WITH, THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA SHALL EACH INDEPENDENTLY HAVE THE RIGHT TO TAKE SUCH STEPS AS EACH DEEMS NECESSARY, IN ACCORDANCE WITH ITS CONSTITUTIONAL PROCESSES, INCLUDING THE USE OF MILITARY FORCE IN THE REPUBLIC OF PANAMA, TO REOPEN THE CANAL OR RESTORE THE OPERATIONS OF THE CANAL, AS THE CASE MAY BE.

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(2) THE INSTRUMENTS OF RATIFICATION OF THE TREATY SHALL BE EXCHANGED ONLY UPON THE CONCLUSION OF A PROTOCOL OF EXCHANGE, TO BE SIGNED BY AUTHORIZED REPRESENTATIVES OF BOTH GOVERNMENTS, WHICH SHALL CONSTITUTE AN INTEGRAL PART OF THE TREATY DOCUMENTS AND WHICH SHALL INCLUDE THE FOLLOWING:

'NOTHING IN THE TREATY SHALL PRECLUDE THE REPUBLIC OF PANAMA AND THE UNITED STATES OF AMERICA FROM MAKING, IN ACCORDANCE WITH THEIR RESPECTIVE CONSTITUTIONAL PROCESSES, ANY AGREEMENT OR ARRANGEMENT BETWEEN THE TWO COUNTRIES TO FACILITATE PERFORMANCE AT ANY TIME AFTER DECEMBER 31, 1999, OF THEIR RESPONSIBILITIES TO MAINTAIN THE REGIME OF NEUTRALITY ESTABLISHED IN THE TREATY, INCLUDING AGREEMENTS OR ARRANGEMENTS FOR THE STATIONING OF ANY UNITED STATES MILITARY FORCES OR THE MAINTENANCE OF DEFENSE SITES AFTER THAT DATE IN THE REPUBLIC OF PANAMA THAT THE REPUBLIC OF PANAMA AND THE UNITED STATES OF AMERICA MAY DEEM NECESSARY OR APPROPRIATE.'

(C) RESERVATIONS:

(1) BEFORE THE DATE OF ENTRY INTO FORCE OF THE TREATY, THE TWO PARTIES SHALL BEGIN TO NEGOTIATE FOR AN AGREEMENT UNDER WHICH THE AMERICAN BATTLE MONUMENTS COMMISSION WOULD, UPON THE DATE OF ENTRY INTO FORCE OF SUCH AGREEMENT AND THEREAFTER, ADMINISTER, FREE OF ALL TAXES AND OTHER CHARGES AND WITHOUT COMPENSATION TO THE REPUBLIC OF PANAMA AND IN ACCORDANCE WITH THE PRACTICES, PRIVILEGES, AND IMMUNITIES ASSOCIATED WITH THE ADMINISTRATION OF CEMETERIES OUTSIDE THE UNITED STATES OF AMERICA BY THE AMERICAN BATTLE MONUMENTS COMMISSION, INCLUDING THE DISPLAY OF THE FLAG OF THE UNITED STATES OF

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AMERICA, SUCH PART OF COROZAL CEMETERY IN THE FORMER

CANAL ZONE AS ENCOMPASSES THE REMAINS OF CITIZENS OF THE UNITED STATES OF AMERICA.

(2) THE FLAG OF THE UNITED STATES OF AMERICA MAY BE DISPLAYED, PURSUANT TO THE PROVISIONS OF PARAGRAPH 3 OF ARTICLE VII OF THE PANAMA CANAL TREATY, AT SUCH PART OF COROZAL CEMETERY IN THE FORMER CANAL ZONE AS ENCOMPASSES THE REMAINS OF CITIZENS OF THE UNITED STATES OF AMERICA.

(3) THE PRESIDENT--

(A) SHALL HAVE ANNOUNCED, BEFORE THE DATE OF ENTRY INTO FORCE OF THE TREATY, HIS INTENTION TO TRANSFER, CONSISTENT WITH AN AGREEMENT WITH THE REPUBLIC OF PANAMA, AND BEFORE THE DATE OF TERMINATION OF THE PANAMA CANAL TREATY, TO THE AMERICAN BATTLE MONUMENTS COMMISSION THE ADMINISTRATION OF SUCH PART OF COROZAL CEMETERY AS ENCOMPASSES THE REMAINS OF CITIZENS OF THE UNITED STATES OF AMERICA; AND

(B) SHALL HAVE ANNOUNCED, IMMEDIATELY AFTER THE DATE OF EXCHANGE OF THE INSTRUMENTS OF RATIFICATION, PLANS, TO BE CARRIED OUT AT THE EXPENSE OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA, FOR--

(I) REMOVING, BEFORE THE DATE OF ENTRY INTO FORCE OF THE TREATY, THE REMAINS OF CITIZENS OF THE UNITED STATES OF AMERICA FROM MOUNT HOPE CEMETERY TO SUCH PART OF COROZAL CEMETERY AS ENCOMPASSES SUCH REMAINS, EXCEPT THAT THE REMAINS OF ANY CITIZEN WHOSE NEXT OF KIN OBJECTS IN WRITING TO THE SECRETARY OF THE ARMY NOT LATER THAN THREE MONTHS AFTER THE DATE OF EXCHANGE OF THE INSTRUMENTS OF RATIFICATION OF THE TREATY SHALL NOT BE REMOVED; LIMITED OFFICIAL USE
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AND

(II) TRANSPORTING TO THE UNITED STATES OF AMERICA FOR REINTERMENT, IF THE NEXT OF KIN SO REQUESTS, NOT LATER THAN THIRTY MONTHS AFTER THE DATE OF ENTRY INTO FORCE OF THE TREATY, ANY SUCH REMAINS ENCOMPASSED BY COROZAL CEMETERY AND, BEFORE THE DATE OF ENTRY INTO FORCE OF THE TREATY, ANY REMAINS REMOVED FROM MOUNT HOPE CEMETERY PURSUANT TO SUBCLAUSE (I); AND

(C) SHALL HAVE FULLY ADVISED, BEFORE THE DATE OF ENTRY INTO FORCE OF THE TREATY, THE NEXT OF KIN OBJECTING UNDER CLAUSE (B)(I) OF ALL AVAILABLE OPTIONS AND THEIR IMPLICATIONS.

(4) TO CARRY OUT THE PURPOSES OF ARTICLE III OF THE TREATY OF ASSURING THE SECURITY, EFFICIENCY, AND PROPER MAINTENANCE OF THE PANAMA CANAL, THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA, DURING THEIR RESPECTIVE PERIODS OF RESPONSIBILITY FOR CANAL OPERATION AND MAINTENANCE, SHALL, UNLESS THE AMOUNT OF THE OPERATING REVENUES OF THE CANAL EXCEEDS THE AMOUNT NEEDED TO CARRY OUT THE PURPOSES OF SUCH ARTICLE, USE SUCH REVENUES OF THE CANAL ONLY FOR PURPOSES CONSISTENT WITH THE PURPOSES OF ARTICLE III.

(D) UNDERSTANDINGS:

(1) PARAGRAPH 1(C) OF ARTICLE III OF THE TREATY SHALL BE CONSTRUED AS REQUIRING, BEFORE ANY ADJUSTMENT IN TOLLS FOR USE OF THE CANAL, THAT THE EFFECTS OF ANY SUCH TOLL ADJUSTMENT ON THE TRADE PATTERNS OF THE TWO PARTIES SHALL BE GIVEN FULL CONSIDERATION, INCLUDING CONLIMITED OFFICIAL USE
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SIDERATION OF THE FOLLOWING FACTORS IN A MANNER CONSISTENT WITH THE REGIME OF NEUTRALITY:

(A) THE COSTS OF OPERATING AND MAINTAINING THE PANAMA CANAL;

(B) THE COMPETITIVE POSITION OF THE USE OF THE CANAL IN RELATION TO OTHER MEANS OF TRANSPORTATION;

(C) THE INTERESTS OF BOTH PARTIES IN MAINTAINING THEIR DOMESTIC FLEETS;

(D) THE IMPACT OF SUCH AN ADJUSTMENT ON THE VARIOUS GEOGRAPHICAL AREAS OF EACH OF THE TWO PARTIES; AND

(E) THE INTERESTS OF BOTH PARTIES IN MAXIMIZING THEIR INTERNATIONAL COMMERCE.

THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA SHALL COOPERATE IN EXCHANGING INFORMATION NECESSARY FOR THE CONSIDERATION OF SUCH FACTORS.

(2) THE AGREEMENT 'TO MAINTAIN THE REGIME OF NEUTRALITY ESTABLISHED IN THIS TREATY' IN ARTICLE IV OF THE TREATY MEANS THAT EITHER OF THE TWO PARTIES TO THE TREATY MAY, IN ACCORDANCE WITH ITS CONSTITUTIONAL PROCESSES, TAKE UNILATERAL ACTION TO DEFEND THE PANAMA CANAL AGAINST ANY THREAT, AS DETERMINED BY THE PARTY TAKING SUCH ACTION.

(3) THE DETERMINATION OF 'NEED OR EMERGENCY' FOR THE PURPOSE OF ANY VESSEL OF WAR OR AUXILIARY VESSEL OF THE

UNITED STATES OF AMERICA OR THE REPUBLIC OF PANAMA GOING
TO THE HEAD OF THE LINE OF VESSELS IN ORDER TO TRANSIT
THE PANAMA CANAL RAPIDLY SHALL BE MADE BY THE NATION
OPERATING SUCH VESSEL.

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(4) NOTHING IN THE TREATY, IN ANNEX A OR B THERETO,
IN THE PROTOCOL RELATING TO THE TREATY, OR IN ANY OTHER
AGREEMENT RELATING TO THE TREATY, OBLIGATES THE UNITED
STATES OF AMERICA TO PROVIDE ANY ECONOMIC ASSISTANCE,
MILITARY GRANT ASSISTANCE, SECURITY SUPPORTING ASSISTANCE,
FOREIGN MILITARY SALES CREDITS, OR INTERNATIONAL MILITARY
EDUCATION AND TRAINING TO THE REPUBLIC OF PANAMA.

(5) THE PRESIDENT SHALL INCLUDE ALL AMENDMENTS, CONDI-
TIONS, RESERVATIONS, AND UNDERSTANDINGS INCORPORATED BY
THE SENATE IN THIS RESOLUTION OF RATIFICATION IN THE INSTRU-
MENT OF RATIFICATION TO BE EXCHANGED WITH THE GOVERNMENT
OF THE REPUBLIC OF PANAMA.

NOW, THEREFORE, I, JIMMY CARTER, PRESIDENT OF THE UNITED
STATES OF AMERICA, RATIFY AND CONFIR' THE NEUTRALITY
TREATY, SUBJECT TO THE AFOREMENTIONED AMENDMENTS, CONDI-
TIONS, RESERVATIONS AND UNDERSTANDIN;S.

IN TESTIMONY WHEREOF, I HAVE SIGNED THIS INSTRUMENT OF
RATIFICATION AND CAUSED THE SEAL OF THE UNITED STATES OF
AMERICA TO BE AFFIXED.

DONE AT (), OUR LORD ONE THOUSAND NINE HUNDRED
SEVENTY-EIGHT AND OF THE INDEPENDENCE OF THE UNITED STATES
OF AMERICA THE TWO HUNDRED SECOND.

BY THE PRESIDENT:

SECRETARY OF STATE." END TEXT. CHRISTOPHER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 26 sep 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TREATY RATIFICATION, TEXT, DOCUMENTS, CANALS
Control Number: n/a
Copy: SINGLE
Draft Date: 21 apr 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE102629
Document Source: ADS
Document Unique ID: 00
Drafter: L/ARA:M.KOZAK:JV
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Expiration:
Film Number: D780171-1158
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197804109/baaafcmp.tel
Line Count: 314
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Message ID: 9839bda6-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2830521
Secure: OPEN
Status: NATIVE
Subject: PANAMA CANAL TREATIES
TAGS: PBOR, PGOV, PN, US
To: PANAMA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/9839bda6-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014